

AMENDED IN SENATE JUNE 29, 2011

AMENDED IN ASSEMBLY JUNE 1, 2011

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY APRIL 4, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 210

Introduced by Assembly Member Solorio

January 31, 2011

An act to amend Sections ~~1797.224 and 1797.270 of, to add Sections 1797.95 and 1797.225 to, and to repeal Section 1797.201 of, the Health 1797.85, 1797.224, 1797.270, 1797.274, and 1797.276 of, and to repeal and add Section 1797.201 of, the Health and Safety Code, relating to emergency medical services.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 210, as amended, Solorio. Emergency medical services.

(1) Existing law establishes the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, which governs local emergency medical service systems and establishes the Emergency Medical Services Authority, which is responsible for the coordination and integration of all state activities concerning emergency medical services. The act requires a county to enter into a written agreement with a city or fire district that contracted for, or provided, as of June 1, 1980, prehospital emergency medical services regarding the provision of these services for the city or fire district, as specified. The act requires, until an agreement is reached, prehospital emergency medical services to be continued at not less than the existing level,

unless reduced by the city council or the governing body of the fire district, as specified.

~~This bill would require these requirements~~ *continue the authorization of a city or fire district that had continuously contracted for or provided prehospital emergency medical services (EMS) since June 1, 1980, to contract for or provide, with operational control, the same category of prehospital EMS that it has continuously provided during that time, within the geographical service area that it continuously served during that time, if the city or fire district makes a formal written request to the local EMS agency prior to January 1, 2014, and if specified conditions are met. The bill would revise the definition of exclusive operating area for this purpose to delete providers of limited advanced life support on advanced life support.*

(2) The act authorizes a local EMS agency to create one or more exclusive operating areas in the development of a local plan, as specified, and requires a local EMS agency that creates an exclusive operating area in its local plan to develop and submit the local EMS agency's competitive process for selecting providers and determining the scope of their operations to the authority.

~~This bill would require authorize a local EMS agency to grant an one or more exclusive operating area or authorization to provide the same prehospital emergency medical services to a city, county, fire district, or other governmental entity that has continuously contracted for, or provided, these services since June 1, 1980, if this prehospital EMS provider has not entered into an agreement with the local EMS agency to provide prehospital emergency medical services for a city, county, or fire district. It would require a prehospital EMS provider, as defined, granted an exclusive operating area or authorization to provide prehospital emergency medical services to enter into a written agreement with the local EMS agency by December 31, 2013. It would also require prehospital EMS providers to be subject to the medical control of the local EMS agency and comply with local EMS agency policies and procedures regarding administration of the local EMS system areas for emergency ambulance services, interfacility transport, or both, in the development of the local plan.~~

(3) The EMS act authorizes the establishment of an emergency medical care committee in each county and requires the committee to annually review ambulance services operating within the county, emergency medical care offered within the county, and first aid practices in the county. The act also requires the committee to report its

observations and recommendations relative to this review to the authority and the local EMS agency.

This bill would, *instead, require the committee to review the county's emergency medical system. The bill would* require the membership of an emergency medical care committee in each county to be representative of the EMS system participants.

(4) By increasing the duties of local officials, this bill would impose a state-mandated local program.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Emergency medical services (EMS) system coordination
4 remains the key factor in efficiently delivering the highest level
5 of prehospital patient care and emergency *medical* transport.

6 (b) ~~All providers and stakeholders~~ *prehospital EMS providers*
7 in the EMS delivery system must be guided by consistent, clear
8 standards regarding their rights, responsibilities, and duties arising
9 out of the provision of prehospital emergency medical ~~care~~ *services*
10 to their respective communities.

11 (c) ~~Agencies~~ *Local EMS agencies* responsible for developing
12 and maintaining a local emergency medical services plan must be
13 guided by and responsive to reasonable and consistent standards
14 for evaluating and determining the scope, manner, and types of
15 services provided within their respective jurisdictions, particularly
16 when making determinations regarding exclusive operating areas,
17 *as set forth in Sections 1797.85 and 1797.224*, and the concomitant
18 rights of cities and fire districts that have provided prehospital
19 emergency medical services at not less than the existing level since
20 June 1, 1980.

~~(d) As of January 1, 2012, all emergency medical services personnel, regardless of local agency or private employer, are subject to the same training, certification, and licensing standards, and coordinate in the same manner with the base hospital in the provision of prehospital EMS services.~~

~~(d) It is the intent of the act adding this subdivision to preserve the rights of cities and fire districts as set forth in Section 1797.201, as that section read on December 31, 2011, and the authority of the local EMS agencies to grant exclusive operating areas pursuant to Section 1797.224 as that section read on December 31, 2011, and to align those rights and authority.~~

(e) Cities, fire districts, private providers, and local EMS agencies are vital partners in the delivery of prehospital EMS services, partners that contribute to a rapid deployment of highly trained EMS personnel.

~~(f) Cities and fire districts remain a fundamental partner in assisting the county in its duty to provide emergency ambulance services for all residents of that county.~~

~~(g) A city or fire district that retains and carries out prehospital emergency medical service is a reflection of the will of that jurisdiction's constituents, as it is the local taxpayers who must pay to maintain the chosen level of service or any increase in the level of that service.~~

~~(h)~~
(f) It is in the public interest to ensure that all agencies providing prehospital EMS services do so within a coordinated EMS system that provides clear standards for training, certification, and licensure of personnel, as well as for *administration*, medical control, and clinical oversight.

~~(i) Guided by findings of the courts over the past two decades, without altering or otherwise affecting the status of a city or fire district that has historically provided prehospital emergency medical services, it is further the intent of the Legislature to lend greater clarity to the rights and responsibilities of a city, county, fire district, private provider, and local EMS agency with respect to their respective emergency response duties to their constituents.~~

(j) Establishing an agreement between a city or fire district and its respective local EMS agency to codify the existing authority of that city or fire district to continue the administration of its own prehospital emergency medical services as part of a coordinated

1 EMS system, rather than relying on the absence of an agreement,
2 best serves all agencies that seek to work cooperatively to provide
3 quality patient care at the highest level.

4 (k) ~~It is imperative that those cities and fire districts providing,~~
5 ~~as of January 1, 2012, services in the categories of dispatch of their~~
6 ~~own resources, first responder, or transport at a level not less than~~
7 ~~what they provided continuously within the same category since~~
8 ~~June 1, 1980, be recognized through a written agreement with the~~
9 ~~local emergency medical services agency (LEMSA) as an~~
10 ~~authorized service provider within the local EMS system.~~

11 (l) ~~Over 20 years of litigation magnifies the need for further~~
12 ~~statutory guidance to ensure that the California EMS community~~
13 ~~continues its focus on its primary mission, providing excellent care~~
14 ~~to the citizens they serve.~~

15 SEC. 2. ~~Section 1797.95 is added to the Health and Safety~~
16 ~~Code, to read:~~

17 1797.95. “Prehospital EMS provider” means a city, county,
18 fire district, or other governmental entity or private entity that
19 provides first response services at the limited advanced life support
20 or advanced life support level or provides emergency ambulance
21 services or dispatches EMS resources.

22 SEC. 2. *Section 1797.85 of the Health and Safety Code is*
23 *amended to read:*

24 1797.85. “Exclusive operating area” means an EMS area or
25 subarea defined by the emergency medical services plan for which
26 a local EMS agency, upon the recommendation of a county,
27 restricts operations to one or more emergency ambulance services
28 or providers of limited advanced life support or advanced life
29 support.

30 SEC. 3. Section 1797.201 of the Health and Safety Code is
31 repealed.

32 SEC. 4. *Section 1797.201 is added to the Health and Safety*
33 *Code, to read:*

34 1797.201. (a) *A city or fire district that has continuously*
35 *contracted for or provided prehospital emergency medical services*
36 *(EMS) since June 1, 1980, shall have continuing authorization to*
37 *contract for or provide, with operational control, the same category*
38 *of prehospital EMS that is has continuously provided during that*
39 *time, within the geographical service area that it continuously*
40 *served during that time, if the city or fire district makes a formal*

1 *written request for recognition to the local EMS agency prior to*
2 *January 1, 2014, and if the following conditions are met:*

3 *(1) The city or fire district has not previously entered into a*
4 *prehospital EMS administration agreement. A “prehospital EMS*
5 *administration agreement” means an agreement entered into*
6 *between a city or fire district and a local EMS agency in which*
7 *the city or fire district agreed to have their prehospital EMS*
8 *administered by the local EMS agency. An agreement, other than*
9 *an agreement described in this paragraph, previously entered into*
10 *between a local EMS agency and a city or fire district where the*
11 *city or fire district agreed to adhere to that local EMS agency’s*
12 *medical control policies and procedures shall not constitute a*
13 *prehospital EMS administration agreement.*

14 *(2) The city or fire district enters into a written agreement with*
15 *the local EMS agency, in a form specified by the local EMS agency,*
16 *addressing only the following:*

17 *(A) Medical control including policies, protocols, emergency*
18 *medical dispatch protocols, and quality improvement.*

19 *(B) Coordination of EMS resources.*

20 *(C) Recognition of the category of prehospital EMS that the*
21 *city or fire district is authorized to perform.*

22 *(D) Designation of the geographical service area for which*
23 *authorization is granted.*

24 *(b) If the city or fire district fails to enter into an agreement*
25 *with the local EMS agency by January 1, 2014, or has failed to*
26 *commence an appeal, then the city or fire district shall not perform*
27 *or contract for that category of prehospital EMS unless formally*
28 *authorized to do so by the local EMS agency in accordance with*
29 *the requirements of this division. Appeals shall proceed in the*
30 *following order: local Emergency Medical Care Committee or its*
31 *equivalent, the governing body of the local EMS agency, and then*
32 *judicial review. The standard of review on the appeal shall be de*
33 *novo.*

34 *(c) A city or fire district that has not continuously performed,*
35 *or contracted for, a category of prehospital EMS since June 1,*
36 *1980, shall not perform or contract for that category or prehospital*
37 *EMS unless formally authorized to do so by the local EMS agency*
38 *in accordance with the requirements of this division.*

1 (d) A local EMS agency shall include all prehospital EMS
2 providers who comply with the requirements of this division in its
3 local emergency medical services plan.

4 (e) For purposes of this division, "category of prehospital EMS"
5 shall include only one or more of the following:

6 (1) First response, which means the delivery of prehospital EMS
7 without patient transport.

8 (2) Dispatch, which means dispatch of a provider's own or
9 contracted prehospital EMS resources.

10 (3) 911 ambulance transport service, which means ambulance
11 service provided in response to a 911 call or, as determined by
12 the local EMS agency, an emergency call to a 7 digit number.

13 (4) Interfacility ambulance service, which means ambulance
14 transport, other than 911 ambulance service, between health
15 facilities or between a patient's residence and a health facility.

16 (f) All prehospital EMS providers shall be subject to medical
17 control by the local EMS agency, including, but not limited to,
18 those pursuant to Chapter 5 (commencing with Section 1798), and
19 shall comply with local EMS agency policies and procedures
20 regarding the delivery of prehospital emergency medical services.

21 (g) Nothing in this section shall preclude a prehospital EMS
22 provider from increasing the level of service it provides within a
23 category for which it has continuously provided service since June
24 1, 1980.

25 (h) Nothing in this section shall be construed as permitting a
26 prehospital EMS provider from adding a new category of service
27 that it has not provided continuously since June 1, 1980.

28 ~~SEC. 4.~~

29 SEC. 5. Section 1797.224 of the Health and Safety Code is
30 amended to read:

31 1797.224. A local EMS agency may create one or more
32 exclusive operating areas for emergency ambulance services or
33 interfacility transport, or both, in the development of a local plan,
34 if a competitive process is utilized to select the provider or
35 providers of the services pursuant to the plan. No competitive
36 process is required if the local EMS agency develops or implements
37 a local plan that continues the use of existing providers operating
38 within a local EMS area in the manner and scope in which the
39 services have been provided without interruption since January 1,
40 1981. A local EMS agency which elects to create one or more

1 exclusive operating areas in the development of a local plan shall
2 develop and submit for approval to the authority, as part of the
3 local EMS plan, its competitive process for selecting providers
4 and determining the scope of their operations. This plan shall
5 include provisions for a competitive process held at periodic
6 intervals *as determined by the local EMS agency*.

7 ~~SEC. 5. Section 1797.225 is added to the Health and Safety~~
8 ~~Code, to read:~~

9 ~~1797.225. (a) A local EMS agency shall grant to a city, county,~~
10 ~~fire district, or other governmental entity that has continuously~~
11 ~~contracted for, or provided prehospital emergency medical services~~
12 ~~since June 1, 1980, an exclusive operating area or authorization~~
13 ~~to provide the same prehospital emergency medical services if this~~
14 ~~prehospital EMS provider has not already entered into an~~
15 ~~agreement with the local EMS agency to provide prehospital~~
16 ~~emergency medical services for a city, county, or fire district. The~~
17 ~~prehospital EMS provider granted an exclusive operating area or~~
18 ~~authorization to provide prehospital emergency medical services~~
19 ~~shall enter into a written agreement with the local EMS agency by~~
20 ~~December 31, 2013.~~

21 ~~(b) A local EMS agency shall include all prehospital EMS~~
22 ~~providers in its local emergency medical services plans.~~

23 ~~(c) Prehospital EMS providers shall be subject to medical control~~
24 ~~by the local EMS agency, including, but not limited to, pursuant~~
25 ~~to Chapter 5 (commencing with Section 1798), and shall comply~~
26 ~~with local EMS agency policies and procedures regarding the~~
27 ~~administration of the local EMS system.~~

28 ~~SEC. 6. Section 1797.270 of the Health and Safety Code is~~
29 ~~amended to read:~~

30 ~~1797.270. An emergency medical care committee may be~~
31 ~~established in each county in this state. The committee membership~~
32 ~~shall be representative of the EMS system participants. Nothing~~
33 ~~in this division should be construed to prevent two or more adjacent~~
34 ~~counties from establishing a single committee for review of~~
35 ~~emergency medical care in these counties.~~

36 ~~SEC. 7. Section 1797.274 of the Health and Safety Code is~~
37 ~~amended to read:~~

38 ~~1797.274. The emergency medical care committee shall, at~~
39 ~~least annually, review the operations of each of the following:~~
40 ~~county's emergency medical system.~~

1 ~~(a) Ambulance services operating within the county.~~

2 ~~(b) Emergency medical care offered within the county,~~
3 ~~including programs for training large numbers of people in~~
4 ~~cardiopulmonary resuscitation and lifesaving first aid techniques.~~

5 ~~(c) First aid practices in the county.~~

6 *SEC. 8. Section 1797.276 of the Health and Safety Code is*
7 *amended to read:*

8 1797.276. Every emergency medical care committee shall, at
9 least annually, report to the authority, and the local EMS agency
10 its observations and recommendations relative to its review of the
11 ~~ambulance services, emergency medical care, and first aid~~
12 ~~practices, and programs for training people in cardiopulmonary~~
13 ~~resuscitation and lifesaving first aid techniques, and public~~
14 ~~participation in such programs in that county~~ *county's emergency*
15 *medical system.* The emergency medical care committee shall
16 submit its observations and recommendations to the county board
17 or boards of supervisors which it serves ~~and shall act in an advisory~~
18 ~~capacity to the county board or boards of supervisors which it~~
19 ~~serves;~~ and to the local EMS agency, on all matters relating to
20 emergency medical services ~~as directed by the board or boards of~~
21 ~~supervisors.~~

22 ~~SEC. 7.~~

23 *SEC. 9.* This act, which ~~adds Section 1797.225 to, and repeals~~
24 ~~repeals and adds~~ Section 1797.201 of; the Health and Safety Code,
25 shall not be construed to affect, limit, or otherwise invalidate any
26 decision by a court of competent jurisdiction that interprets and
27 applies ~~Section 1797.201~~ *Division 2.5 (commencing with Section*
28 *1797)* of the Health and Safety Code, as that ~~section~~ *division* read
29 on December 31, 2011.

30 ~~SEC. 8.~~

31 *SEC. 10.* If the Commission on State Mandates determines that
32 this act contains costs mandated by the state, reimbursement to
33 local agencies and school districts for those costs shall be made
34 pursuant to Part 7 (commencing with Section 17500) of Division
35 4 of Title 2 of the Government Code.